

TIMOTHY J. LONG, SBN 137591  
MICHAEL D. WEIL, SBN 209056  
KIMPO NGOI, SBN 283383  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, California 94105  
Telephone: (415) 773-5700  
Facsimile: (415) 773-5759

Attorneys for Defendants  
CVS PHARMACY, INC., CVS RX SERVICES, INC.,  
and GARFIELD BEACH CVS, LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RIMANPREET UPPAL, an Individual,  
Individually and on behalf of all others  
similarly situated and the general public,,

Plaintiff,

v.

CVS PHARMACY, INC., a Rhode Island  
corporation; CVS RX SERVICES, INC., a  
New York corporation; GARFIELD BEACH  
CVS, LLC, a California limited liability  
company; and DOES 1 thru 50, inclusive,

Defendants.

Case No. 3:14-cv-02629-VC

Hon. Vince Chhabria

**STIPULATION AND ~~PROPOSED~~  
ORDER TO STAY PLAINTIFF'S  
MOTION TO REMAND AND  
DEFENDANTS' TIME TO RESPOND  
PENDING NINTH CIRCUIT REVIEW  
OF DEFENDANTS' PETITION FOR  
PERMISSION TO APPEAL**

STIPULATION AND [PROPOSED] ORDER TO STAY PLAINTIFF'S MOTION TO REMAND AND DEFENDANTS' TIME TO RESPOND  
PENDING NINTH CIRCUIT REVIEW OF DEFENDANTS' PETITION FOR PERMISSION TO APPEAL

CASE NO. 3:14-CV-02629-VC

**STIPULATION**

WHEREAS, counsel for Plaintiff Rimanpreet Uppal also represents the named plaintiffs in four other separate, but related class action cases: *Sharobiem v. CVS Pharmacy, Inc.*, Case No. CV 13-9426-GHK; *Bystrom v. CVS Pharmacy, Inc.*, Case No. CV 13-09424-GHK; *Paksy v. CVS Pharmacy, Inc.*, Case No. CV 13-09425-GHK; and *Connell v. CVS Pharmacy, Inc.*, No. CV 13-09410-GHK.

WHEREAS, the class complaints in the *Connell*, *Sharobiem*, *Bystrom*, and *Paksy* actions raised allegations of similar unlawful conduct—including a failure to pay overtime for work performed by pharmacists on the seventh consecutive day of work—by Defendants in each of the regions across California that CVS Pharmacy, Inc. operates.<sup>1</sup>

WHEREAS, counsel for Plaintiff originally filed the complaints in the related cases in the Superior Court for the County of Los Angeles between October 2, 2013 and November 6, 2013.

WHEREAS, on December 20, 2013, counsel for Defendants removed the *Connell*, *Sharobiem*, *Bystrom*, and *Paksy* actions under the Class Action Fairness Act of 2005, 28 U.S.C. section 1332(d) (“CAFA”), to the United States District Court for the Central District of California.

WHEREAS, on January 21, 2014, counsel for Plaintiff moved to remand the *Connell*, *Sharobiem*, *Bystrom*, and *Paksy* actions to state court.

WHEREAS, on March 26, 2014, the Central District of California denied the motion to remand in *Sharobiem*, which included claims under the Private Attorneys General Act (“PAGA”) but granted the motions in *Connell*, *Bystrom*, and *Paksy*, which did not include claims under PAGA.

WHEREAS, on March 27, 2014, counsel for Plaintiff filed the present action’s class

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<sup>1</sup> CVS operates six regions within the State of California. The class action regarding the sixth of these regions, *Meneses v. CVS Pharmacy Inc. et al.*, Case No. BC 489739 (Los Angeles Superior Court), has a motion for preliminary approval of settlement pending, with the hearing currently set for July 17, 2014. Defendants removed *Meneses* on September 6, 2012, and the action was remanded to state court on November 5, 2012. See Case No. 2:12-cv-07661-PA (CW) (Docket No. 18).

1 complaint in the Superior Court for the County of Alameda. Plaintiff's complaint raises  
2 allegations of unlawful conduct similar to those in the foregoing related cases, including a failure  
3 by Defendants to pay overtime for work performed by pharmacists on the seventh consecutive  
4 day of work.

5 WHEREAS, on April 7, 2014, Defendants filed petitions with the United States Court of  
6 Appeals for the Ninth Circuit requesting permission to appeal the Central District's remand orders  
7 in *Paksy* (Case No. 14-80047), *Bystrom* (Case No. 14-80048), and *Connell* (Case No. 14-80049).  
8 In particular, Defendants contend that those actions satisfied CAFA's \$5 million amount in  
9 controversy requirement individually and collectively.

10 WHEREAS, on June 6, 2014, Defendants removed the present action to the United States  
11 District Court for the Northern District of California under CAFA, arguing that it may be properly  
12 aggregated with the *Connell*, *Bystrom*, *Paksy*, and *Sharobiem* actions to meet the amount in  
13 controversy requirement. As stated in its removal papers, Defendants intend to transfer the  
14 present action to the Central District to facilitate coordination with the *Sharobiem* case.

15 WHEREAS, on July 7, 2014, counsel for Plaintiff moved to remand the present action to  
16 state court.

17 WHEREAS, Defendants' deadline to oppose Plaintiff's motion to remand is presently set  
18 for July 21, 2014.

19 WHEREAS, the Parties agree that the Ninth Circuit's decision regarding Defendants'  
20 petition for permission to appeal the Central District's orders granting remand in *Connell*,  
21 *Bystrom*, and *Paksy* will be dispositive with respect to Plaintiff's motion to remand in the present  
22 action.

23 WHEREAS, the Parties seek to seek to resolve the issue of this case's removal efficiently  
24 and without unnecessary expenditure of the Court's resources.

25 THEREFORE, IT IS HEREBY STIPULATED, by the Parties and their respective counsel  
26 of record:

27 That Plaintiff's motion to remand and Defendants' time to oppose Plaintiff's motion will  
28

That should the Ninth Circuit accept Defendants’ petition for permission to appeal the Central District’s orders in *Connell*, *Bystrom*, and *Paksy*, Plaintiff’s motion to remand and Defendants’ time to oppose Plaintiff’s motion will continue to be stayed pending the final outcome of Defendants’ appeal.

That should the Ninth Circuit reverse the Central District's orders in *Connell*, *Bystrom*, and *Paksy* based on Defendants' aggregation argument, Plaintiff will withdraw his motion to remand and the Parties will stipulate to transfer the present action to the Central District for coordination with the related cases.

That should the Ninth Circuit deny Defendants’ petition for permission to appeal or affirm the Central District’s orders in *Connell*, *Bystrom*, and *Paksy*, the Parties will promptly stipulate to remand the present action to state court.

That in 90 days from the date of this stipulation, the parties shall file a joint status report with this Court proposing either an additional stay or other methods by which to proceed.

Dated: July 14, 2014

TIMOTHY J. LONG  
MICHAEL D. WEIL  
ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/  
MICHAEL D. WEIL

Attorney for Defendants  
CVS PHARMACY, INC., CVS RX  
SERVICES, INC., and GARFIELD BEACH  
CVS, LLC

1 Dated: July 14, 2014

V. JAMES DESIMONE  
MICHAEL D. SEPLOW  
SCHONBRUM DESIMONE SEPLOW HARRIS  
& HOFFMAN LLP

4 By: \_\_\_\_\_/s/  
MICHAEL D. SEPLOW

6 Attorney for Plaintiff  
RIMANPREET UPPAL

8  
9 **ATTESTATION**

10 I hereby attest that the concurrence in the filing of this document has been obtained from  
11 Michael Seplow, of Schonbrum DeSimone Seplow Harris & Hoffman LLP, Attorneys for  
12 Plaintiff.

13 Dated: July 14, 2014

TIMOTHY J. LONG  
MICHAEL D. WEIL  
ORRICK, HERRINGTON & SUTCLIFFE LLP


16 By: \_\_\_\_\_/s/  
MICHAEL D. WEIL

17 Attorney for Defendants  
18 CVS PHARMACY, INC., CVS RX  
19 SERVICES, INC., and GARFIELD BEACH  
20 CVS, LLC

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATE: July 23, 2014

  
Hon. Vince Chhabria